

CITY OF GEORGETOWN, KENTUCKY

ORDINANCE NO. 19 -029

AN ORDINANCE AMENDING GEORGETOWN CODE OF ORDINANCES CHAPTER 5, ARTICLE II REGARDING THE HUMAN RIGHTS COMMISSION.

SUMMARY

1. Amends Chapter 5 of the Georgetown Code of Ordinances to create a Georgetown Human Rights Commission.
2. Establishes the membership and powers of the Commission, defines the process for evaluating complaints and provides for enforcement of orders issued by the Commission.
3. Provides for repeal of inconsistent ordinances, severability of provisions and an effective date upon passage and publication.

The full text of Ordinance 19-029 is available for examination in the City Clerk's Office, 100 North Court Street, Georgetown, Kentucky 40324 or at www.georgetownky.gov.

INTRODUCED AND PUBLICLY READ FIRST TIME: November 25, 2019

PUBLICLY READ SECOND TIME AND PASSED: December 9, 2019

APPROVED: _____

Tom Prather, Mayor

ATTEST: _____

Tracie Hoffman, City Clerk

I, Devon E. Golden, hereby certify I am an Attorney licensed to practice law in the Commonwealth of Kentucky. My office is located at 100 North Court Street, Georgetown, Kentucky 40324. I further certify the foregoing Summary of Ordinance 19-029, of the City of Georgetown, Kentucky, was prepared in accordance with the requirements of KRS 83A.060(9) and is a true and accurate summary of the contents of said Ordinance.



Devon E. Golden

ORDINANCE 19 - 029

AN ORDINANCE AMENDING GEORGETOWN CODE OF ORDINANCES CHAPTER 5, ARTICLE II REGARDING THE HUMAN RIGHTS COMMISSION.

Sponsor: Council Members Mark Showalter and Tammy Lusby Mitchell

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF GEORGETOWN, KENTUCKY:

SECTION ONE

Chapter 5, Article II of the Code of Ordinances is amended as follows:

Sec. 5-16. Membership.

The Georgetown ~~and Scott County~~ Human Rights Commission shall consist of ~~twelve~~ **five (5)** members who shall be appointed on a nonpartisan basis and shall be broadly representative of the financial institutions, real estate businesses, religious groups, human rights groups, and the general public. The mayor ~~and county judge~~ shall appoint the members, to be approved by the city council ~~and fiscal court~~. Of the first ~~twelve~~ **five (5)** members appointed, ~~four (4)~~ **one (1)** shall be appointed for one (1) year; ~~four (4)~~ **two (2)** shall be appointed for two (2) years; and ~~four (4)~~ **two (2)** shall be appointed for three (3) years. Subsequent appointments shall be for three (3) years. In the event of incapacity, death or resignation of any member a successor shall be appointed for member's unexpired term. Members shall be eligible for reappointment, **subject to the limitations of section 2-196.** Before making new appointments or any reappointments, the mayor ~~or county judge~~ may request the recommendations of the commission. No elected or appointed city ~~or county~~ official shall be a member of the commission. **Each member of the commission shall have been a resident of Scott County for at least one (1) year prior to the date of the appointment and shall reside in the county throughout the term in office.** The members shall serve without compensation.

Sec. 5-17. Powers.

The human rights commission is authorized to:

- (1) ~~Receive, initiate, investigate, hear and determine charges of violations of ordinances, orders or resolutions forbidding discrimination adopted by the city and county~~ Receive or initiate complaints in the following manner:
 - a. Receive or initiate complaints regarding race, color, religion, national origin, sex, familial status, age, or disability, and facilitate the filing of such complaints with the Kentucky Commission on Human Rights or such other applicable State or Federal agency, which agency shall be delegated all duties and powers with respect to investigating, conciliating, hearing, determining, ordering, or otherwise acting as to any matter regarding those type of claims;
 - b. Receive or initiate complaints regarding gender identity and sexual orientation and conduct investigations, hold hearings, etc.
- (2) Compel the attendance of witnesses and the production of evidence before it by the subpoena issued by the county circuit court;
- (3) ~~Issue remedial orders, after notice and hearing, requiring cessation of violations;~~ Upon finding no violation of an ordinance, order or resolution forbidding discrimination adopted by the city, enter an order dismissing the complaint; upon finding a violation of an ordinance, order or resolution forbidding discrimination adopted by the city, issue one (1) or more of the following orders:
 - a. An order directing the person or entity found to have violated this chapter to cease and desist from the discriminating practice;
 - b. An order subjecting any person or entity found to have violated this chapter to civil penalties of not less than \$100.00 or more than \$500.00;
- (4) Issue such affirmative orders as in its judgment will carry out the purposes of this chapter;
- (5) Employ, if necessary, an executive director, attorneys, hearing examiners, clerks and other employees and agents;
- (6) Enter into cooperative working agreements with federal or state agencies to achieve the purposes of this chapter;
- (7) Appoint one (1) or more of its members to act as a hearing examiner or examiners to preside over hearings and make recommendations to the commission based upon the record of proceedings, including testimony which shall be recorded in a form established by the commission.
- (8) Appoint an administrative official for the purpose of receiving service of any and

all complaints, forwarding complaints filed under Section 5-17(1)(a) to the Kentucky Commission on Human Rights or such other applicable State or Federal agency, scheduling meetings of the Human Rights Commission for complaints filed under Section 5-17(1)(b) or any other reason for which the commission may require a meeting, and receiving, processing and responding to open records requests.

~~(7) In its own discretion or up on request of the city council, fiscal court, or the state commission on human rights refer a matter under its jurisdiction to the state commission on human rights for initial action or review.~~

Sec. 5-18. Administrative provisions.

- (1) The commission shall elect a chairperson, vice-chairperson and a secretary from among its members.
- (2) All orders of the commission shall be signed by the chairperson or vice-chairperson and attested by the secretary.
- (3) The presence of at least a majority of the board's entire membership shall constitute a quorum.
- (4) A simple majority vote of all members present, where there is a properly constituted quorum, shall be necessary to transact any official business.

Sec. 5-19. Complaint Procedure.

- (1) A person seeking to file a complaint for discrimination based on gender identity or sexual orientation shall state, in his/her complaint, the following:
 - a. His or her, name, address and telephone number;
 - b. The name and address (if known) of the alleged actor, or provide facts sufficient to identify such person;
 - c. Full details of the material facts upon which the complaint is based;
 - d. The alleged violation;
 - e. The nature of the transaction or occurrence;
 - f. That the alleged violation(s) occurred in the course of obtaining housing, employment or public accommodations;
 - g. That a complaint concerning this same matter has not been filed with another agency or if a complaint concerning this matter has been filed with another

agency, the name of the agency, and whether it has been dismissed by such agency without final judgment on the merits.

- (2) The commission shall furnish a copy of the complaint to the person against whom the complaint is made.
- (3) Before conducting an investigation of the complaint, the commission may attempt to negotiate a settlement of the dispute between the parties, if the commission deems that such an attempt is practicable.
- (4) If the commission does not deem it practicable to attempt a pre-investigation settlement or if such settlement attempt is unsuccessful, then the commission will conduct an investigation to determine if there is probable cause to believe the allegations of the complaint. An investigation can include, but is not limited to, interviews of the parties or requests for written statements and information. Said investigation must be completed within sixty (60) days of receipt of the complaint.
- (5) If the commission determines that there is no probable cause that a discriminatory action occurred, the commission shall dismiss the complaint. Written notice of the dismissal shall be served upon the complainant and alleged violator by regular U.S. mail.
- (6) If it is determined, after investigation, that there is probable cause to believe the respondent has engaged in an unlawful practice, the commission shall endeavor to eliminate the alleged unlawful practice by conference and conciliation. The terms of the conciliation agreement reached with the respondent may require them to refrain from the commission of unlawful discriminatory practices in the future and make such further provisions as may be agreed upon between the commission and the respondent. Except for the terms of the conciliation agreement, neither the commission nor any officer or employee thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate an unlawful practice by conference and conciliation, whether or not there is a determination of probable cause or a conciliation agreement.
- (7) The commission shall furnish a copy of such signed conciliation agreement to the complainant and person charged.
- (8) A conciliation agreement need not contain a declaration or finding that a violation has in fact occurred but may provide for dismissal of the complaint with or without prejudice.

- (9) The commission shall have thirty (30) days after completion of the investigation to attempt to eliminate the alleged violation by conciliation agreement. If either the complainant or the person or entity charged indicates an unwillingness to participate in the conciliation process or if no conciliation process or conciliation agreement has been reached with the time provided, the commission shall hold a public hearing to determine whether or not an unlawful practice has been committed.
- (10) The commission shall serve upon the respondent a statement of the charges made in the complaint and a notice of the time and place of the hearing. The hearing shall be held not less than ten (10) days after the service of the statement of charges and not more than sixty (60) days after the service of the statement of charges. The respondent shall have the right to file an answer, to appear at the hearing in person or be represented by an attorney, and to examine and cross-examine witnesses. A determination of probable cause shall in no way create a presumption of a violation.
- (11) If a majority of the commissioners attending a duly constituted hearing determine that the respondent has engaged in an unlawful practice, the commission shall state its findings of fact and conclusions of law and shall issue an order complying with Section 5-17(3). If the commission fails to determine that the respondent has engaged in an unlawful practice, the commission shall so state and shall issue an order dismissing the complaint.
- (12) In connection with an investigation of a complaint filed under this subsection, the commission or its designated representatives at any reasonable time may request access to the premises, records, and documents relevant to the complaint and the right to examine, photograph, and copy evidence, but all such evidence not otherwise presented at a public hearing shall be of a confidential nature. In conducting its investigation, the commission does not have the right to substantially interfere with the operation of the business which is the subject of the investigation.

Sec. ~~5-20~~ 5-18. Enforcement of orders.

~~The proceeding for enforcement of an order of the human rights commission is initiated by filing a complaint in the circuit court. Copies of the complaint shall be served upon all parties of record. Within thirty (30) days after the filing of the complaint by the human rights commission, or within such further time as the court may allow, the human rights commission shall transmit to the court the original or certified copy of the entire record upon which the order is based, including a transcript of testimony, which need not be printed. By stipulation of~~

~~all parties to the proceeding, the record may be shortened. The findings of fact of the human rights commission shall be conclusive unless clearly erroneous in view of the probative and substantial evidence on the whole record. The court shall have the power to grant such temporary relief or restraining order as it deems just, and to enter an order enforcing, modifying and enforcing as modified or setting aside in whole or in part the order of the human rights commission, or remanding the case to the human rights commission for further proceedings. All such proceedings shall be heard and determined by the circuit court and the court of appeals as expeditiously as possible and with lawful precedence over other matters.~~

- (a) The proceeding for enforcement of a Human Rights Commission order regarding discrimination based on gender identity or sexual orientation shall be initiated by filing a complaint in the Circuit Court. Copies of the complaint shall be served upon all parties of record within thirty (30) days after the filing of the complaint by the commission, or within such further time as the court may allow, and the commission shall transmit to the Court the original or a certified copy of the entire record upon which the order is based, including the transcript of testimony or as otherwise may be stipulated by all parties to the proceeding and as established by KRS 344.340 and the rules of civil procedure.**
- (b) The proceeding for enforcement of orders regarding race, color, religion, national origin, sex, familial status, age, or disability shall be as established by the applicable agency to which the complaint is delegated.**

SECTION TWO

~~If any section, subsection, paragraph, sentence, clause, phrase, or a portion of this ordinance is declared illegal or unconstitutional or otherwise invalid, such declaration shall not affect the remaining portions hereof.~~

SECTION THREE

~~All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.~~

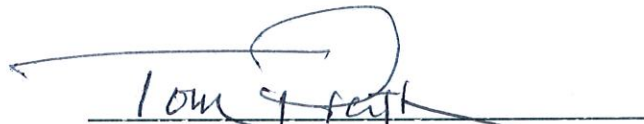
SECTION FOUR

This Ordinance shall be in full force and effect upon passage and publication.

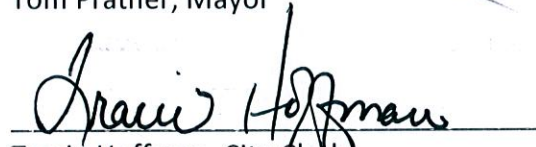
PUBLICLY INTRODUCED AND READ FIRST TIME: November 25, 2019

PUBLICLY READ SECOND TIME AND PASSED: December 10, 2019

APPROVED:


Tom Prather, Mayor

ATTEST:


Tracie Hoffman, City Clerk